

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

United States of America,

Plaintiff,

V.

Francoise Ngele Bundu,

Defendant.

CRIMINAL
NO. 05-01076-JGD

MOTION TO DISMISS FOR VIOLATION OF THE SPEEDY TRIAL ACT

Pursuant to 18 U.S.C. § 3162(a)(1), defendant Francoise Bundu hereby moves the Court for the mandatory dismissal of the Complaint filed by the government against Ms. Bundu as a result of its continued failure to file an indictment or information within the time period required by 18 U.S.C. § 3161(b). Ms. Bundu seeks dismissal of the Complaint with prejudice.

Ms. Bundu was arrested on April 5, 2005. 591 days have passed since her arrest. 239 days have passed since the last date of excludable time. No indictment or information has been filed. This grossly exceeds the time period for indictment required by 18 U.S.C. § 3161(b) and 18 U.S.C. § 3161(h).

In further support of her Motion, Ms. Bundu relies on her Memorandum of Law in Support of Defendant's Motion to Dismiss for Violation of the Speedy Trial Act, which is filed herewith and incorporated herein by reference.

WHEREFORE, Defendant Francoise Bundu requests that her Motion to Dismiss for Violation of the Speedy Trial Act be allowed and that the government's Complaint be dismissed with prejudice.

Francoise Ngele Bundu,

By her attorney,

/s/ Andrew C. Phelan
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Dated: December 8, 2006

CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on December 8, 2006.

/s/ Andrew C. Phelan
Andrew C. Phelan

LOCAL RULE 7.1 (A)(2) CERTIFICATE

I hereby certify that counsel for the defendant has attempted to confer with counsel for the government in a good faith effort to resolve the issues presented in the above motion. Most recently, on October 17, 2006, I sent a letter to counsel for the government asking the government either to dismiss the case or indict the defendant. Receiving no response, I re-sent that letter to government counsel on October 26, 2006. In addition, I left a voicemail for government counsel on November 18, 2006. As I have received no response to these efforts, no conference has taken place.

/s/ Andrew C. Phelan
Andrew C. Phelan